

115 CMR: DEPARTMENT OF MENTAL RETARDATION

115 CMR 1.00: SCOPE AND AUTHORITY

Section

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1.01: Scope of Regulations

- (1) Scope of title. 115 CMR sets forth the regulations of the Department of Mental Retardation, in 115 CMR called the Department. 115 CMR applies to the operation of the Department and to the operation and provision of services and supports by public and private programs and facilities that are subject to the Department's jurisdiction.
- (2) Scope of Chapters and Sections. Unless the contrary is specified in a particular chapter or section of 115 CMR, all categories of services and supports, programs and facilities operated, licensed, certified, or contracted by the Department are subject to all chapters and sections of 115 CMR.

1.02: Authority

- (1) Department. The establishment of the Department was authorized by St. 1986, c. 599. The Authority of the Department derives primarily from the provisions of M.G.L. c. 19B and M.G.L. c. 123B as inserted in the General Laws by St. 1986, c. 599, and as amended. All regulations adopted pursuant to M.G.L. chs. 19B and 123B, and any rights arising from such regulations, are subject to appropriation.
- (2) Commissioner. The Department is under the exclusive supervision and control of the Commissioner of Mental Retardation, in 115 CMR called the Commissioner. The Commissioner is appointed by the Secretary of Health and Human Services subject to the approval of the Governor.

- (3) Breadth of Services. The Department's authority to provide services and supports derives from statute and is not restricted by the description of specific types of services or supports in 115 CMR. Nothing in 115 CMR shall be interpreted to prevent the Department from developing and implementing new types or models of services or supports, including but not limited to direct cash assistance or vouchers systems.

1.03: Interagency Agreements With Department of Mental Health

Pursuant to M.G.L. c. 19B, § 18, interagency agreements between the Commissioner of Mental Health and the Commissioner of Mental Retardation may be entered into from time to time for the coordinated regulation, or for the coordinated or joint management, of certain services or supports that may be required or that should be provided by both the Department of Mental Health and the Department of Mental Retardation; provided that no such agreement shall conflict with the Department of Mental Retardation's primary responsibility for persons with mental retardation regardless of whether such persons are also mentally ill, nor shall any such agreement deprive any person with mental retardation who also has mental illness from equal access to services offered by the Department of Mental Health, simply by reason of mental retardation. The regulations of the Department of Mental Health concerning facilities, programs, services, and supports for, and the rights of, persons with mental retardation shall remain in effect until superseded, revised, rescinded, or cancelled by regulations appearing in 115 CMR.

1.04: Severability

If any regulation or section, sub-section, sentence, clause, phrase or portion thereof is found to be invalid by a court of competent jurisdiction for any reason, said portion shall be deemed a separate, distinct, and independent provision, and the validity of the remaining portion, if any, of the affected regulations or of the other regulations shall not be affected.